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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of	)	Andreas M. Papas, <i>et al.</i>
	)	
For	)	Aqueous Emulsions of Lipophile Solubilized with
	)	Vitamin E TPGS and Linoleic Acid
	)	
Serial Number	)	10/805,122
	)	
Filed	)	March 20, 2004
	)	
Art Unit	)	1615
	)	
Examiner	)	Eric E. Silverman, Ph.D.
	)	

RESPONSE TO RESTRICTION REQUIREMENT AND ELECTION OF SPECIES

The Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In response to the Office communication mailed May 18, 2007, Applicants provisionally elect, without traverse, claims of Group I (Claims 1-15, 22 and 23, drawn to a composition of matter including vitamin E TPGS and linoleic acid, classified in class 424, subclass 400). A three-month extension of time for filing this response is respectfully requested, and the response is accompanied by the appropriate fee under 37 CFR 1.17 (a)(3).

Applicants respectfully request that claims 16, 17, and 18-21 be canceled without prejudice, reserving the right to reintroduce them in one or more applications (e.g., divisional applications) claiming the benefit of priority of the present application. Please cancel claim 12. Claims 1-23 were pending in the application at the time of the requirement for restriction.

Applicants have been instructed to elect a single disclosed species from the group comprising lipophiles, and therefore elect lipophiles comprising vitamin E homologs (i.e., tocopherols/tocotrienols). A listing of the claims readable thereon (claims 6 through 15, 22 and 23) accompanies this response. Applicants do, however, traverse this requirement and request that the elected claims be examined as presented, as the inventors have demonstrated that the linoleic acid/TPGS combination acts as a better emulsifier of lipophilic compounds than does TPGS alone—and TPGS has been shown to solubilize a wide variety of lipophilic compounds (see accompanying product information from Eastman Chemical, Kingsport, Tennessee). In this respect, the various different chemical structures of lipophiles, their different physiochemical properties, and their different medical or biomedical uses, effects, and metabolic pathways do not require that the claimed composition encompassing lipophiles other than vitamin E homologs be separately patentable.

Applicants understand that upon a finding that the elected claims are allowable, withdrawn process claims may be rejoined pursuant to M.P.E.P. §821.04 and In re Ochai, 71 F.3d 1565, 37 USPQ2d 1127 (Fed. Cir. 1995) and the rejoined process claims will be fully examined for patentability.